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A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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August 15, 1996

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AUG 15 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

VIA MESSENGER

Mr. William F. Caton  
Acting Secretary  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

Re: Notice of Ex Parte Contact  
WT Docket No. 96-18

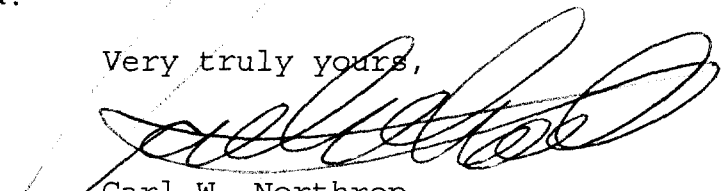
Dear Mr. Caton:

On August 15, 1996, Kathleen Abernathy, Mark Stachiw and Carl Northrop, all representing AirTouch Paging, met in three separate meetings with (i) Kathleen Ham, Amy Zoslov, Frank Stillwell and Brett Tarnutzer of the Auctions Division, (ii) Jackie Chorney of Chairman Reed Hundt's office and (iii) Jennifer Warren, David Furth and Mika Savir of the Wireless Telecommunications Bureau to discuss market area licensing procedures for paging services under consideration in WT Docket No. 96-18.

The enclosed hand-out outlining the presentation topics was distributed.

Kindly refer any questions in connection with this matter to the undersigned.

Very truly yours,

  
Carl W. Northrop  
of PAUL, HASTINGS, JANOFSKY & WALKER

Enclosure

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Mr. William F. Caton  
August 15, 1996  
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cc: Kathleen O'Brien Ham  
Amy Zoslov  
Frank Stillwell  
Brett Tarnutzer  
Jackie Chorney  
Jennifer Warren  
David Furth  
Mika Savir  
Kathleen Abernathy

**Presentation of AirTouch Paging  
on Market-Area Licensing  
Procedures for Paging Services**

**(WT Docket No. 96-18)**

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AUGUST 15, 1996

## Summary of AirTouch Paging's Positions on Market-Area Licensing Rules

### Scope of Auction Use

- Site-by-site licensing should be replaced with an MTA-based auction scheme for all paging channels, including lower band PCP channels
- Nationwide exclusive PCP channels, including those under construction, should be excluded from the auction

### Application Procedures

- 929 and 931 MHz channels should be auctioned first, followed by lower band channels
- Applicants should be required to identify every channel in each MTA on which they desire to bid (i.e., no "All" box on the Form 175)

- A separate upfront payment based on MTA population should be required for each channel in each MTA on which the applicant seeks eligibility to avoid "Phantom MX" situations

### Conduct of the Auction

- Auctions should be conducted with a market-by-market, frequency-by-frequency stopping rule
- Bidding credits and other preferences should not be accorded to any selected groups of bidders
- Winning bidders should be allowed to establish "secondary" facilities pending action on their long form application

### Post Auction Service Requirements

- Winning bidders should be required to construct facilities to serve 10% of the population of MTA within first year after grant, 33% within 3 years, and 66% in 5 years
- There should be no "substantial service" exception
- Geographic partitioning along recognized geographic boundaries should be allowed

## Issues of Particular Concern to AirTouch Paging

- PCP carriers should be allowed to complete construction of authorized stations and retain nationwide exclusivity of their qualifying systems
- There is a critical need for mechanisms to streamline the auction process to keep uncontested frequencies from being tied up in an auction
- Well-conceived construction benchmarks are necessary to avoid speculation

## The Public Interest Will be Served by Granting Exclusivity to PCP Carriers that Build Qualifying Systems Based on Pre-Freeze Applications

- The same public interest benefits that caused the Commission to grant nationwide exclusivity in the first place still apply
- The Commission's rules specifically provide that exclusivity rights vest at the time of licensing, subject to divestments in the absence of construction

- Section 90.495(c) provides:

A proposed paging system that meets the criteria for channel exclusivity . . . will be granted exclusivity under this section at the time of initial licensing. Such licensing will expire unless the proposed system . . . is constructed and operating within [the construction deadline] (Emphasis Added)

- The existing rules have never settled and have been in existence less than 3 years



## AirTouch Deserves Exclusivity on 929.4875 MHz

- AirTouch now holds authorizations for approximately 435 facilities on 929.4875 MHz throughout the nation
- AirTouch has completed construction of over 378 licensed sites on 929.4875 MHz and 53 additional sites pursuant to preoperation authority for a total of 431 operating locations
- All construction has been completed within initial CP deadlines
- AirTouch is continuing to build out the channel by virtue of 76 additional licensed locations and 397 coordinated applications that pre-dated the freeze
- AirTouch currently serves over 100,000 subscribers on this channel
- On a single count basis, AirTouch has met all nationwide exclusivity requirements set forth in Section 90.495 of the rules

## Mechanisms to Streamline the Auction Process

- Require applicants to specifically apply for each frequency in each MTA for which they want to bid. This will avoid "Phantom MX" situations
- Require separate upfront payments for every channel on which bidding eligibility is sought to assure a seriousness of purpose:
  - MTAs 1 to 10 \$10,000 per channel/per market
  - 11 to 30 5,000
  - above 30 2,500
- Provide for market-by-market, frequency-by-frequency stopping rules